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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/521,532

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Mathias Muth

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EXAMINER

BUTLER, PATRICK NEAL

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,532	<b>Applicant(s)</b> MUTH ET AL.	
	<b>Examiner</b> Patrick Butler	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 June 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 and 27 is/are pending in the application.
- 4a) Of the above claim(s) 10-23 and 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060213</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Applicant's election of Group I, Claims 1-9, in the reply filed on 25 June 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claims 10-23 and 27 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 25 June 2008

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 2 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 2, the phrase "for preference" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. For purposes of examination, the Examiner assumes that fibrous material forming the surface of the second roller is claimed.

Regarding Claim 5, the phrase "hose-type" renders the claim indefinite because the claim includes elements not actually disclosed (those encompassed by "-type"),

Art Unit: 1791

thereby rendering the scope of the claim(s) unascertainable. For example, would any woven or non-woven materials be hose-type because they are made from fiber, too? Are films hose-type if they are tubular, too? Would seamed tubular material be considered hose-type? For purposes of examination, the Examiner assumes that the felt material is a hose covering.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3, 6, 8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Karami (US Patent No. 3,965,906).

With respect to Claim 1, Karami teaches of making a perforated web 32, 39 (a method for the manufacture of a perforated nonwoven) by passing needles 46 of an upper roll 44 through the webs 32, 39 (wherein perforation means engage into the nonwoven, the perforation means are arranged on a first roller; the perforation means displace the fibers of the nonwoven) into the bristles 50 or soft surface such as rubber of a lower roll 48 (the perforation means engage through the nonwoven into a surface of a second roller; whereby the perforation means engage in a material on the second roller, which they can displace during the engagement and whereby contours are formed in the material) (see col. 3, line 45 through col. 4, line 1 and fig. 1).

Art Unit: 1791

With respect to Claim 3, Karami teaches that heating is done after rather than during perforation (see col. 7, lines 1-11). Thus, the temperature during perforation is necessarily below that of the melt temperature of the nonwoven or a decomposition temperature of the material.

With respect to Claims 6 and 8, Karami teaches passing needles 46 of an upper roll 44 through the webs 32, 39 forming permanent perforations (the perforation means displace fibers of the nonwoven; whereby the fibers are compacted and an opening in the nonwoven is stabilized) into the bristles 50 or soft surface such as rubber of a lower roll 48 (push against the material; fibers are at least in part drawn in sympathy into the material) (see col. 3, line 45 through col. 4, line 1 and fig. 1).

With respect to Claim 9, Karami teaches that the perforated webs 32, 39 are acted on by the subsequent processing steps involving the heating member 58, heating elements 64 and 70, and a severing second section 76 (see col. 3, line 66 through col. 4, line 59), which would necessarily include their reception and thus detection of the perforated webs 32, 39.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 4 rejected under 35 U.S.C. 103(a) as being unpatentable over Karami (US Patent No. 3,965,906) as applied to claim 1 above, and further in view of Ciaccia et al. (US Patent No. 4,257,842).

With respect to Claims 2 and 4, Karami teaches a lower roller that is bristles 50 or soft surface such as rubber (see col. 3, line 45 through col. 4, line 1) but does not expressly teach that the soft surface is a felt material or a partially fibrous material.

Ciaccia teaches that a conforming roller opposing a shaping roller is paper-wool (a felt material; a partially fibrous material) (see col. 3, lines 47-52).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use Ciaccia's paper-wool roller in the process of Karami because Karami teaches using other materials as soft surfaces (see Karami, col. 3, lines 55-57) and Ciaccia's surface allows it to be complementary to the action of the shaping roller (see Ciaccia, col. 3, lines 33-60).

Claims 3 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Karami (US Patent No. 3,965,906) as applied to claims 1 and 6 above, and further in view of Giacometti (European Patent Application 0 598 970 A1).

With respect to Claim 3, Karami teaches that heating is done after rather than during perforation (see col. 7, lines 1-11).

However, if it is held that Karami does not explicitly teach that the temperature of the perforation means is within the claimed range (e.g., below that of the melt temperature of the nonwoven or a decomposition temperature of the material), in this regard, Giacometti teaches maintaining the outer surface of a perforation means at a

Art Unit: 1791

suitable temperature to facilitate the processing of the web material via a heating means (below a melt temperature of the nonwoven or a decomposition temperature of the material) (see col. 3, lines 51-56 and col. 5, lines 52-56). As such, Giacometti recognizes that the temperature of the perforation means is a result-effective variable. Since the temperature of the perforation means is a result-effective variable, one of ordinary skill in the art would have obviously been motivated to determine the optimum temperature of the perforation means applied in the process of Karami through routine experimentation based upon facilitate the plastic deformation of the web material (see Giacometti, col. 3, lines 51-56).

With respect to Claim 7, Karami teaches of making a perforated web 32, 39 by passing needles 46 of an upper roll 44 through the webs 32, 39 (see col. 3, line 45 through col. 4, line 1 and fig. 1) but does not expressly teach that when the perforation means engage, fibers are at least in part forced out of the nonwoven, whereby the fibers for a structure which correspondingly exhibits a geometry of the perforation means, which, after the nonwoven has run through the first and second roll, rises from the surface of the nonwoven.

Giacometti teaches that protuberances P1, P2 from the cylinder 7 break through the web N and partially detach material that remains connected to the web (that when the perforation means engage, fibers are at least in part forced out of the nonwoven, whereby the fibers for a structure which correspondingly exhibits a geometry of the perforation means, which, after the nonwoven has run through the first and second roll,

Art Unit: 1791

risers from the surface of the nonwoven) (see col. 5, line 52 through col. 6, line 7 and fig. 7).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to form partially detached material from the web as taught by Giacometti in the process of making a perforated web as taught by Karami in order to obstruct backflow and direct liquid to the interior of a formed product (see Giacometti, col. 6, lines 14-28).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karami (US Patent No. 3,965,906) in view of Ciaccia et al. (US Patent No. 4,257,842) as applied to claim 4 above, and further in view of McGrew (US Patent No. 5,51,030).

With respect to Claim 5, Karami in view of Ciaccia teach a method of making an embossing roller as of felt as previously described but does not expressly teach that the felt is a hose covering.

McGrew teach that the material of a shaping roller should be seamless (see col. 1, lines 44-63 and col. 2, lines 44-63).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use McGrew's teaching of seamless rollers in the process of Karami in order to provide cleaner shaped products (see McGrew, col. 2, lines 58-60).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick Butler whose telephone number is (571) 272-



Art Unit: 1791

8517. The examiner can normally be reached on Mon.-Thu. 7:30 a.m.-5 p.m. and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. B./

Examiner, Art Unit 1791

/Monica A Huson/

Primary Examiner, Art Unit 1791